

# Senate File 2301 - Introduced

SENATE FILE 2301  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3159)

## A BILL FOR

1 An Act requiring a commercial breeder of dogs and cats to file  
2 evidence of financial responsibility with the department  
3 of agriculture and land stewardship, and making penalties  
4 applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 162.2, subsection 8, Code 2011, is  
2 amended to read as follows:

3 8. a. "*Commercial breeder*" means a person, engaged in the  
4 business of breeding dogs or cats, who sells, exchanges, or  
5 leases dogs or cats in return for consideration, or who offers  
6 to do so, whether or not the ~~animals~~ dogs or cats are raised,  
7 trained, groomed, or boarded by the person. A person who owns  
8 or harbors three or fewer breeding ~~males~~ dogs or ~~females~~ cats  
9 is not a commercial breeder. However, a person who breeds  
10 any number of breeding male or female greyhounds for the  
11 purposes of using them for pari-mutuel wagering at a racetrack  
12 as provided in chapter 99D shall be considered a commercial  
13 breeder irrespective of whether the person sells, leases, or  
14 exchanges the greyhounds for consideration or offers to do so.  
15 b. A dog or cat used for breeding includes either a female  
16 or male.

17 Sec. 2. Section 162.2, Code 2011, is amended by adding the  
18 following new subsections:

19 NEW SUBSECTION. 15A. "*Financial institution*" means  
20 a state bank as defined in section 524.103, a state bank  
21 chartered under the laws of any other state, a national  
22 banking association, a federally chartered savings and loan  
23 association, an out-of-state state chartered savings bank, a  
24 financial institution chartered by the federal home loan bank  
25 board, a non-Iowa chartered savings and loan association, or  
26 an association incorporated or authorized to do business under  
27 chapter 534.

28 NEW SUBSECTION. 15B. "*Government entity*" means the  
29 federal government, including the United States department of  
30 agriculture; the state, including the department; or a local  
31 government, including a city as defined in section 362.2 or a  
32 county as provided in chapter 331.

33 Sec. 3. NEW SECTION. 162.8A **Commercial breeder — evidence**  
34 **of financial responsibility.**

35 A person applying for the issuance of an authorization as a

1 commercial breeder as provided in section 162.8 shall provide  
2 the department with evidence of financial responsibility  
3 as required in this section. The evidence of financial  
4 responsibility shall be provided to the department before the  
5 authorization is issued.

6 1. a. The evidence of financial responsibility shall  
7 consist of a surety bond furnished by a surety authorized to  
8 do business in this state or an irrevocable letter of credit  
9 issued by a financial institution.

10 b. The evidence of financial responsibility shall be  
11 continuous in nature. The surety shall provide at least ninety  
12 days' notice in writing to the person and the department  
13 indicating the surety's intent to cancel the surety bond and  
14 the effective date of the cancellation. The person shall have  
15 sixty days from the date of receipt of the surety's notice of  
16 cancellation to file a replacement.

17 2. The amount of the evidence of financial responsibility  
18 shall be based on information included in the application as  
19 certified by the person seeking to obtain the authorization.

20 a. The amount shall be based on the number of breeding dogs  
21 and breeding cats owned by the person, calculated as follows:

22 (1) For a person who does not currently hold an  
23 authorization as a commercial breeder, the calculation shall  
24 be based on the greatest number of breeding dogs or breeding  
25 cats owned by the person at any one time in the previous twelve  
26 months or the greatest number of breeding dogs or breeding cats  
27 that the person expects to own at any one time during the term  
28 of the authorization, whichever is more.

29 (2) For a person who currently holds an authorization as  
30 a commercial breeder, the calculation shall be based on the  
31 greatest number of breeding dogs or breeding cats that the  
32 person owned at any point during the term of the authorization.

33 b. Based on the calculation provided in paragraph "a", the  
34 amount of the evidence of financial responsibility shall be as  
35 follows:

1 (1) For owning twenty or more but not more than fifty  
2 breeding dogs or breeding cats, ten thousand dollars.

3 (2) For owning more than fifty but not more than one hundred  
4 breeding dogs or breeding cats, twenty thousand dollars.

5 (3) For owning more than one hundred but not more than two  
6 hundred fifty breeding dogs or breeding cats, forty thousand  
7 dollars.

8 (4) For owning more than two hundred fifty breeding dogs or  
9 breeding cats, one hundred thousand dollars.

10 c. For purposes of paragraphs "a" and "b", a person is  
11 deemed to own a breeding dog or breeding cat even if the person  
12 does not hold title to the breeding dog or breeding cat so long  
13 as the person otherwise possesses or controls the breeding dog  
14 or breeding cat.

15 3. The evidence of financial responsibility shall be  
16 conditioned upon the person's compliance with the provisions  
17 of this chapter applicable to commercial breeders operating  
18 pursuant to an authorization, during the term of the  
19 authorization.

20 4. The surety's or issuer's liability extends to any  
21 person who serves as the custodian of the dog or cat for all  
22 actual and necessary expenses incurred by providing for care  
23 or disposition of a breeding dog or breeding cat obtained as  
24 provided in this subsection.

25 a. The custodian incurring the expense must have obtained  
26 the dog as a direct result of an enforcement action taken  
27 by a government entity against the person, or a criminal or  
28 civil action in which a government entity is a party. The  
29 enforcement action must be brought under any of the following:

30 (1) The federal Animal Welfare Act, 7 U.S.C. § 2131 et seq.

31 (2) This chapter or chapter 717B, including section 717B.4  
32 or section 717B.5.

33 b. A person authorized as a commercial breeder may  
34 relinquish the breeding dog or breeding cat to a government  
35 entity or a custodian designated or approved by the government

1 entity. The government entity may seize the breeding dog or  
2 breeding cat pursuant to an enforcement action or court order  
3 as provided by federal or state law.

4 *c.* The actual or necessary expenses incurred by a custodian  
5 designated or approved to provide for the care or disposition  
6 of the breeding dog or breeding cat as provided in this  
7 subsection include all of the following:

8 (1) Maintenance, including but not limited to providing  
9 veterinary examinations or treatment, sterilization,  
10 transportation, housing, and sustenance.

11 (2) Disposition, including transfer of title to another  
12 person or humane destruction in the same manner as provided in  
13 section 162.13.

14 *d.* Any private or public entity other than the state  
15 government or the United States government may be a custodian.  
16 A local government may be a custodian.

17 5. A custodian may bring a legal action in order to be  
18 indemnified for all actual and necessary expenses incurred when  
19 the custodian provides for the care and disposition of the dog  
20 or cat as provided in subsection 4.

21 *a.* The legal action may be taken against the surety on the  
22 bond or issuer of the irrevocable letter of credit in district  
23 court. The custodian may also be awarded court costs and  
24 reasonable attorney fees, which shall be taxed as part of the  
25 costs of the legal action.

26 *b.* The surety or issuer shall not be liable to pay for the  
27 amount received by the custodian as a result of an order to pay  
28 for dispositional expenses as provided in section 717B.4.

29 *c.* The aggregate liability of the surety or issuer shall not  
30 exceed the amount of the evidence of financial responsibility.

31 6. *a.* The department shall adopt rules as required  
32 to administer this section, including but not limited to  
33 rules providing for qualifications for a surety or financial  
34 institution, procedures for filing evidence of financial  
35 responsibility, including replacement bonds or letters of

1 credit, requirements for the cancellation of the evidence of  
2 financial responsibility, and the liability of a surety or  
3 issuer after cancellation.

4     **b.** The form and submission of the evidence of financial  
5 responsibility shall be prescribed by the department.

6     Sec. 4. Section 162.12, Code 2011, is amended to read as  
7 follows:

8     **162.12 Denial or revocation of license or registration.**

9     ~~1. A certificate of registration may be denied~~ The  
10 department may deny an application for the issuance of an  
11 authorization to any animal shelter, pound, or research  
12 facility and a state license may be denied to any public  
13 auction, boarding kennel, commercial kennel, pet shop,  
14 commercial breeder, or dealer, or an existing certificate of  
15 registration or state license a commercial establishment and  
16 the department may be revoked by the secretary if, after public  
17 hearing, it is determined suspend or revoke an authorization  
18 issued to a commercial establishment if the department  
19 determines that the housing facilities or primary enclosures  
20 are inadequate under this chapter or if the feeding, watering,  
21 cleaning, and housing practices ~~at the pound, animal shelter,~~  
22 ~~public auction, pet shop, boarding kennel, commercial kennel,~~  
23 ~~research facility, or those practices by the commercial breeder~~  
24 ~~or dealer,~~ employed by the commercial establishment are not in  
25 compliance with this chapter or with the rules adopted pursuant  
26 to this chapter. The premises of each registrant or state  
27 licensee shall be open for inspection during normal business  
28 hours.

29     2. The department shall deny an application for the issuance  
30 of an authorization to operate as a commercial breeder and  
31 shall revoke an authorization issued to a person operating as a  
32 commercial breeder, if the person fails to comply with evidence  
33 of financial responsibility requirements as provided in section  
34 162.8A.

35     Sec. 5. Section 717B.1, Code 2011, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 3A. "*Department*" means the department of  
3 agriculture and land stewardship.

4 Sec. 6. Section 717B.4, subsection 2, Code 2011, is amended  
5 to read as follows:

6 2. The hearing to determine if the animal is a threatened  
7 animal for purposes of disposition shall be a civil proceeding.  
8 The hearing may be part of a hearing to determine the liability  
9 of a surety who issued a surety bond or a financial institution  
10 who issued an irrevocable letter of credit pursuant to  
11 section 162.8A. If However, if the case is related to a  
12 criminal proceeding, the disposition shall not be part of that  
13 proceeding and shall not be considered a criminal penalty  
14 imposed on a person found in violation of this chapter.

15 Sec. 7. Section 717B.4, subsection 3, Code 2011, is amended  
16 by adding the following new paragraph:

17 NEW PARAGRAPH. *0c.* A local authority shall be  
18 indemnified under this section prior to bringing a claim for  
19 indemnification on a surety bond or irrevocable letter of  
20 credit submitted to the department as evidence of financial  
21 responsibility pursuant to section 162.8A.

22 EXPLANATION

23 GENERAL. Commercial breeders of dogs or cats are required  
24 to obtain a state license, or alternatively a permit if  
25 federally licensed, from the department of agriculture and land  
26 stewardship (Code section 162.2A). A license or permit is  
27 generally referred to as an authorization.

28 EVIDENCE OF FINANCIAL RESPONSIBILITY — APPLICATION AS  
29 A COMMERCIAL BREEDER. This bill requires that a person  
30 who applies for an authorization to operate as a commercial  
31 breeder (either issuance or renewal of a license or permit)  
32 must provide the department with evidence of financial  
33 responsibility in the form of a surety bond or irrevocable  
34 letter of credit issued by a financial institution (e.g., a  
35 bank).

1     FINANCIAL CONDITIONS ASSOCIATED WITH MAINTAINING AN  
2 AUTHORIZATION. The bill requires a commercial breeder to  
3 maintain the evidence of financial responsibility, including  
4 by replacing any evidence that is canceled by the surety or  
5 issuer. The amount of the evidence is based on the greatest  
6 number of breeding dogs or cats owned or controlled by the  
7 person at any one time during the past 12 months, ranging from  
8 \$10,000 to \$100,000.

9     USE OF THE EVIDENCE OF FINANCIAL RESPONSIBILITY —  
10 CUSTODIANS. The evidence is used when the commercial breeder  
11 transfers custody of the animal to another person designated  
12 as the animal's custodian. The purpose of the evidence of  
13 financial responsibility is to reimburse the custodian for  
14 the actual and necessary expenses incurred when providing for  
15 the care and disposition of the dog or cat as a result of a  
16 federal or state enforcement action. A custodian entitled  
17 to be reimbursed for expenses includes any private or public  
18 entity other than the state government or the United States  
19 government.

20     DISPOSITIONAL PROCEEDINGS INVOLVING THREATENED ANIMALS.  
21 The bill provides for cases in which there is a dispositional  
22 proceeding in which a local government and the owner are  
23 parties to determine the disposition of a threatened dog or cat  
24 subject to alleged neglect or abuse (Code section 717B.5). The  
25 dispositional proceeding may be joined with the proceeding to  
26 determine the liability of the surety or issuer of irrevocable  
27 letter of credit. In any case, the owner who is a party in a  
28 dispositional proceeding is required to pay for the disposition  
29 of the dog or cat prior to the surety or issuer.

30     DISCIPLINARY ACTION. The department is required to revoke  
31 an authorization issued to a person operating as a commercial  
32 breeder for failing to comply with financial responsibility  
33 requirements.

34     CIVIL PENALTIES. A person who fails to maintain evidence  
35 of financial responsibility is subject to a civil penalty as



S.F. 2301

1 determined by the department, not to exceed \$500, with each day  
2 that a violation continues constituting a separate offense.